

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES—GENERAL

**Case No. CV 23-3980-MWF (PVCx)**

**Date: August 28, 2023**

**Title:** Qiang Cai v. Alejandro Mayorkas, et al.

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**Present:** The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:  
Rita Sanchez

Court Reporter:  
Not Reported

Attorneys Present for Plaintiff:  
None Present

Attorneys Present for Defendant:  
None Present

**Proceedings (In Chambers): ORDER DISMISSING ACTION WITHOUT  
PREJUDICE**

On May 15, 2023, Plaintiff Qiang Cai commenced this action against Defendants Alejandro Mayorkas, Merrick Garland and David Radel. (Complaint (Docket No. 1)). Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff must have served the Complaint by August 13, 2023.

On July 25, 2023, the Court filed a Self-Representation Order. (Docket No. 8). The same day, the Court filed an Order to Show Cause (“OSC”) requiring Plaintiff to show cause why this action should not be dismissed for lack of prosecution. A response to the OSC, in the form of Proofs of Service or a response to the Complaint, had to be filed no later than August 15, 2023. As of August 25, 2023, Plaintiff has not filed a response or any documents responsive to the OSC.

It is well-established that a district court has authority to dismiss a plaintiff’s action due to her failure to prosecute and/or to comply with court orders. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash Railroad Co.*, 370 U.S. 626, 629–30 (1962) (noting that district court’s authority to dismiss for lack of prosecution is necessary to prevent undue delays in the disposition of pending cases and avoid congestion in district court calendars); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992) (stating that district court may dismiss action for failure to comply with any order of the court).

Before ordering dismissal, the Court must consider five factors: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its

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docket; (3) the risk of prejudice to Defendant; (4) the public policy favoring the disposition of cases on their merits; and (5) the availability of less drastic sanctions. *See In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994) (failure to prosecute); *Ferdik*, 963 F.2d at 1260–61 (failure to comply with court orders).

Taking all of these factors into account, dismissal for lack of prosecution is warranted. Plaintiff was specifically warned that failure to respond to the OSC would result in dismissal of this action.

Accordingly, the action is **DISMISSED *without prejudice***.

IT IS SO ORDERED.

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this Order, and its entry on the docket, as an entry of judgment.